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December 10, 2003

Jeff S. Jordan, Esq.
Supervisory Attorney
Federal Election Commission
Office of the General Counsel
999 E Street, N.W.
Washington, D.C. 20463

RE: MUR 5393

Dear Mr. Jordan:

The undersigned represents the New Jersey Democratic State Committee ("NJDCS"), and Joseph P. Cryan, as Treasurer, in the above referenced MUR. In this matter, the Summit City Republican Committee ("SCRC") alleges, among other things, that a \$5,000 contribution to the NJDCS from Jordan Glatt was given to the NJDCS in order for it to be "passed on" to the congressional campaign of Tim Carden, who was the Democratic nominee for the United States House of Representative in the 7th District of New Jersey. Mr. Carden ultimately lost this election to Republican Mike Ferguson with Mr. Ferguson receiving 58% of the vote, and Mr. Carden receiving 41% of the vote.

The NJDCS, in fact, made \$61,858.32 in coordinated expenditures on behalf of Tim Carden. These expenditures were made at the request of the Democratic Congressional Campaign Committee ("DCCC"), who ceded additional 441a(d) authority to make the expenditures, and transferred \$61,858.00 to the NJDCS to make these coordinated expenditures.

The contribution from Mr. Glatt was completely unrelated to any expenditure made on behalf of Tim Carden. Furthermore, contrary to the assertion in the complaint, Mr. Glatt's contribution was not earmarked in any way for Tim Carden, or any other federal candidate.

Accordingly, the Commission should find no reason to believe that my client violated the Federal Election Campaign Act, as amended or the Commission's regulations.

FACTUAL ANALYSIS

The SCRC's complaint alleges that Mr. Glatt made contributions to the the NJDSC for the purpose of making coordinated expenditures on behalf of Tim Carden. Other than this conclusory assertion, the SCRC offers no factual evidence to support this claim. It is our understanding that this complaint, filed almost one year after the election, was filed as an effort to create a political issue against Mr. Glatt in connection with his candidacy for Mayor of Summit, New Jersey.

Of course, the actual facts in this matter are completely contradictory to the SCRC's assertion, and their claim of earmarking is wholly without merit.

First, Mr. Glatt's contribution was made on September 11, 2002. Mr. Glatt had previously made a non-federal contribution to the NJDSC in 2001. Mr. Glatt's contribution came with no instructions or any other type of correspondence (See affidavit of Janice Campbell, attached as Exhibit A). The check had the notation "contribution" written in the memo line (See check attached as Exhibit B). There was no reference to Tim Carden on the check.

Second, as Executive Director of the NJDSC, Ms. Campbell is also responsible for the authorization and disbursement of all expenditures made by the NJDSC. Ms. Campbell's affidavit demonstrates that expenditures made on behalf of Mr. Carden in October 2002 were made solely at the request of the Democratic Congressional Campaign Committee, and had nothing to do with Mr. Glatt's or any other contributor's donation to the NJDSC. Indeed, until the receipt of this complaint, Ms. Campbell had no specific awareness that Mr. Glatt had made a \$5,000 contribution to the NJDSC in September 2002.

Thus, as attested to by Ms. Campbell, the coordinated expenditures made on behalf of Tim Carden were (1) made at the request of the DCCC; (2) paid for with funds transferred to the NJDSC by the DCCC¹; and (3) paid for with coordinated expenditure authority already held by the NJDSC as well as by authority ceded to it by the DCCC².

LEGAL ANALYSIS

The NJDSC does not accept as a matter of policy, and did not accept, an earmarked contribution from Mr. Glatt. Of course, during the 2002 campaign, the NJDSC did not receive any instructions, from any source, as to how to expend any funds contributed to it on behalf of Tim Carden. The Commission's regulations define earmarking as:

1 On October 7, 2002, the DCCC transferred \$61,858 to the NJDSC for the purpose of making the 441a(d) expenditures.

2 The NJDSC utilized the \$35,910 of coordinated expenditure authority granted to it by virtue of 2 U.S.C. § 441a(d)(3), as well as an additional \$28,371 ceded to it by the DCCC on October 4, 2002 (A copy of the letter that cedes the additional 441a(d) authority is attached as Exhibit C). The DCCC had been ceded to it the full 441a(d) authority originally granted to Democratic National Committee by virtue of 2 U.S.C. § 441a(d)(3).

...a designation, instruction, or encumbrance, whether direct or implied, oral or written, which results in all or any part of a contribution or in all or any part of a contribution or expenditure made on behalf of, a clearly identified candidate or candidate's authorized committee. 11 C.F.R. § 110.6(b)(1).

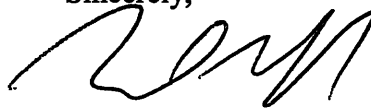
As Ms. Campbell has attested, the contribution from Mr. Glatt did not contain any designation, instruction or encumbrance as to its use.

Finally, the Federal Election Campaign Act authorizes the DCCC to transfer both its coordinated expenditure authority, as well as the funds to pay for those expenditures. Specifically, 2 U.S.C § 441a(a)(4) permits unlimited transfers between the DCCC and the NJDSC. Under former 11 C.F.R. § 110.7(a)(4) (now found at 11 C.F.R. § 109.33) the DCCC was permitted to designate the NJDSC to make expenditures on behalf of Mr. Carden as its agent for this purpose. Finally, the DCCC was permitted to earmark its transfer for the purpose of making expenditures under 2 U.S.C. § 441a(d). See e.g. Federal Election Commission Matter Under Review 2703.

CONCLUSION

As the facts demonstrate, the NJDSC did not receive any instructions as to the use of Mr. Glatt's contribution. The NJDSC retained full discretion as to the ultimate use of these funds. Furthermore, the facts demonstrate that the decision to make coordinated expenditures on behalf of Tim Carden was made solely as a result of a request by, and was financed solely by, the DCCC to make such expenditures. Accordingly, the Commission should find no reason to believe that the NJDSC has violated any provision of the FECA and close the file with respect to my client.

Sincerely,



Neil P. Reiff
Attorney for Respondent New Jersey
Democratic State Committee, and Joseph P.
Cryan, as Treasurer,

ES-04-10-0579

25.04.14.08.00

EXHIBIT A

**BEFORE THE
FEDERAL ELECTION COMMISSION**

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IN RE)	
New Jersey Democratic State Committee)	
and)	MUR 5393
Joseph P. Cryan as Treasurer)	
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DECLARATION OF JANICE CAMPBELL

1. I am Executive Director of the New Jersey Democratic State Committee ("NJDSC"). I make this Declaration in support of the Response filed on behalf of the NJDSC to the Complaint filed in the above-referenced MUR.

2. I have served as Executive Director of the NJDSC since February 2003, and at the time of the contribution and expenditures in question, was serving as the Deputy Executive Director, and in an acting role as Executive Director. Furthermore, as Executive Director, I have been delegated authority, in consultation with the NJDSC CEO and Chair to authorize all expenditures made by the NJDSC.

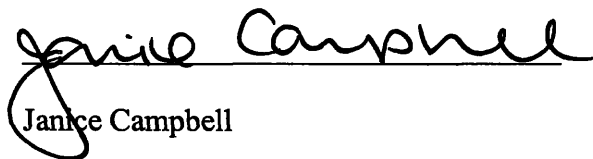
3. On September 11, 2002, the NJDSC received a \$5,000 contribution from Mr. Jordan Glatt. A review of the contribution check shows no indication that Mr. Glatt intended his contribution to be earmarked for any candidate. In fact, until this complaint was filed, I was simply unaware of the fact that this specific contribution had been received by the NJDSC.

4. As Executive Director of the NJDSC, I am responsible for the authorization of and disbursement of all expenditures made by the NJDSC. All expenditures made on

behalf of the Tim Carden subsequent to the receipt of Mr. Glatt's contribution received on September 11, 2002 were made as a result of conversations between the NJDSC, Carden for Congress and the Democratic Congressional Campaign Committee ("DCCC").

5. On October 7, 2002, the DCCC transferred \$61,858.00 from its federal account to the NJDSC federal account. The NJDSC subsequently made \$61,858.32 in coordinated expenditures on behalf of Tim Carden in connection with his 2002 general election campaign. On October 4, 2002, the DCCC ceded \$28,371.00 to the NJDSC of coordinated expenditure authority to make coordinated expenditures on behalf of Mr. Carden. With the exception of .32 cents, these expenditures were paid for solely from the transfer from the DCCC.



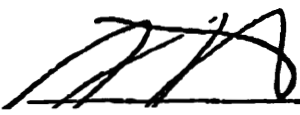
I declare under penalties of perjury that the foregoing is true and correct to the best of my present knowledge, information and belief. Dated this 5th day of December 2003.


Janice Campbell

25.04.410.0883

EXHIBIT B

25-04-416-0351

JORDAN M. GLATT 141 OAK RIDGE AVE. SUMMIT, NJ 07901		1-2785 210	1255
		DATE <u>09/09/02</u>	
PAY TO THE ORDER OF <u>New Jersey Democratic State Committee</u>		\$ <u>5,000.00</u>	
<u>Five Thousand & 00/100</u>		DOLLARS 	
 CHASE		<small>The Chase Manhattan Bank Private Banking 1211 Avenue of the Americas New York, NY 10036</small>	
MEMO <u>Contribution</u>			

25-04-09 09:04

EXHIBIT C

OCT. -04' 02 (FRI) 14:39

DK DEMOCRATIC STATE COMMITTEE

TEL: 0

P. 002 001

10/04/02 FRI 10:55 FAX 202 482 4444

DCCC



DEMOCRATIC
CONGRESSIONAL
CAMPAIGN COMMITTEE

Hon. Nita M. Lowey, NY
Chair

October 4, 2002

Helene P'Simer, CFO
New Jersey Democratic Party
150 West State Street
Trenton, NJ 08608

Dear Helene:

This letter sets forth in full the agreement between the New Jersey Democratic Party and the Democratic Congressional Campaign Committee (DCCC) concerning 441a(d) expenditures on behalf of the nominee in the 7th Congressional District of New Jersey for the 2002 general election.

1. The Democratic Congressional Campaign Committee hereby designates the New Jersey Democratic Party as the agent of the Democratic Congressional Campaign Committee for the exclusive purpose of making expenditures pursuant to 2 USC 441a(d) on behalf of the above nominee up to \$28,371.00. The New Jersey Democratic Party hereby accepts such agency.
2. In exercising its authority pursuant to this agreement the New Jersey Democratic Party will comply with the above-mentioned limitations and other reporting requirements of the Federal Elections Campaign Act of 1971, as amended and the regulations promulgated thereunder.

Please confirm your agreement with the foregoing by signing and returning this letter to Ann Marie Habershaw, Chief Financial Office at the DCCC.

Yours truly,
Democratic Congressional Campaign
Committee

By: 
Ann Marie Habershaw, CFO

Accepted and Agreed:
New Jersey Democratic Party

By: 
Helene P'Simer, CFO

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CONTRIBUTIONS TO THE DEMOCRATIC CONGRESSIONAL CAMPAIGN COMMITTEE ARE NOT TAX DEDUCTIBLE

Paid for by the DCCC. The DCCC is a multi candidate Committee.

2002-10-04 14:39 FAX 202 482 4444